

Board of Zoning Adjustment

Staff Report

August 7, 2023



Case No: 23-VARIANCE-0063
Project Name: Ronwood Drive Variance
Location: 4921 Ronwood Drive
Owner: Heyler Perez
Applicant: Edna Blanco
Jurisdiction: Louisville Metro
Council District: 24- Madonna Flood
Case Manager: Amy Brooks, Planner I

REQUESTS:

- **Variance** from Land Development Code section 4.4.3.A.1.a.ii to allow a fence to exceed 8 feet in height within the required rear yard.
- **Variance** from Land Development Code Table 5.3.1 to allow a principal structure to encroach into the side yard setback.

Location	Requirement	Request	Variance
Rear Yard Fence Height	96 inches	100 inches	4 in.
Side Yard Setback	6 ft.	1 ft.	5 ft.

CASE SUMMARY/BACKGROUND

The subject property is zoned R4 Single-Family Residential within the Neighborhood Form District. Located in southern Jefferson County, the site is currently developed with a one-story, single-family structure. The applicant has constructed a 8'4" metal privacy fence on the rear property line that exceeds the allowed maximum height. The applicant has also built an enclosed deck with the same material that encroaches into the side setback on the western property line.

This case is related to an ongoing enforcement case for the fence exceeding the allowed maximum height.

STAFF FINDINGS

Staff finds that the requested variances are not justified for approval as determined by the staff's analysis contained in the standard of review.

Based upon the information in the staff report, and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards for granting variances established in Land Development Code.

TECHNICAL REVIEW

The applicant is required to obtain a building permit and the proposed addition or structure may require alterations to the proposed building plans in order to meet building code requirements.

INTERESTED PARTY COMMENTS:

Staff received one public comment. The comment is attached to this agenda item.

RELATED CASES:

ENF-ZON-21-000814; the fence is subject to zoning enforcement for exceeding the maximum height.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 4.4.3.A.1.a.ii
(Rear Yard Fence Variance)**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare, because the fence must be constructed to comply with all building codes and the land development code, except where relief is requested

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The proposed height will alter the essential character of the general vicinity as the height of fences located in rear yards is more common to be less than 8' and constructed of wood or chain link.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public as it does not interfere with the movement of people or vehicles and no natural features are impacted.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will allow an unreasonable circumvention of the zoning regulations because the fence was/is capable of being modified to be within the height limits or at a lesser height that would require a smaller dimensional variance request.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does not arise from special circumstances which do not generally apply to the land in the general vicinity or the same zone as the same requirements for fences in side or rear yards are applicable to all residential fences in Neighborhood forms.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant as the existing fence height could be reduced/modified to conform with the existing regulations.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant has already constructed the fence.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM TABLE 5.3.1
(Side Yard Setback)

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all applicable building codes and the Land Development Code, except where relief is requested. However, staff is concerned that the variance could adversely affect the adjacent property owners because construction and maintenance of the structure may require encroachment onto the adjacent property.

- (b) The requested variance will or will not alter the essential character of the general vicinity.

STAFF: The enclosed, attached deck alters the essential character of the general vicinity. Most structures that encroach into the required side setbacks within this neighborhood seemingly complement the existing home's exterior aesthetics; however, this structure does not align with this established pattern. The addition is composed of roofing material which is not compatible to the existing brick façade.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public because the addition to the primary structure must be constructed to comply with all building codes.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will allow an unreasonable circumvention of the zoning regulations. While there are other principal structures along this stretch of Ronwood Drive that seemingly encroach into the side yard setbacks, there are none that do so to the degree of this addition.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the property is similar in size and shape to other properties in the subdivision.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would not create an unnecessary hardship because the applicant could modify or reduce the size of the enclosed deck to bring it into more conformance with existing regulations.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the applicant has completed construction on the new addition.

VARIANCE PLAN REQUIREMENT

In accordance with LDC Section 11.5B.1.C (Requirement to Follow Approved Plan), a variance shall be approved only on the basis of the plan approved by the Board and shall be valid only for the location and area shown on the approved plan. All construction and operations must be conducted in accordance with the approved plan and conditions attached to the variance.

REQUIRED ACTIONS

- APPROVE or DENY the

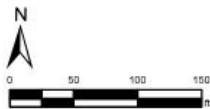
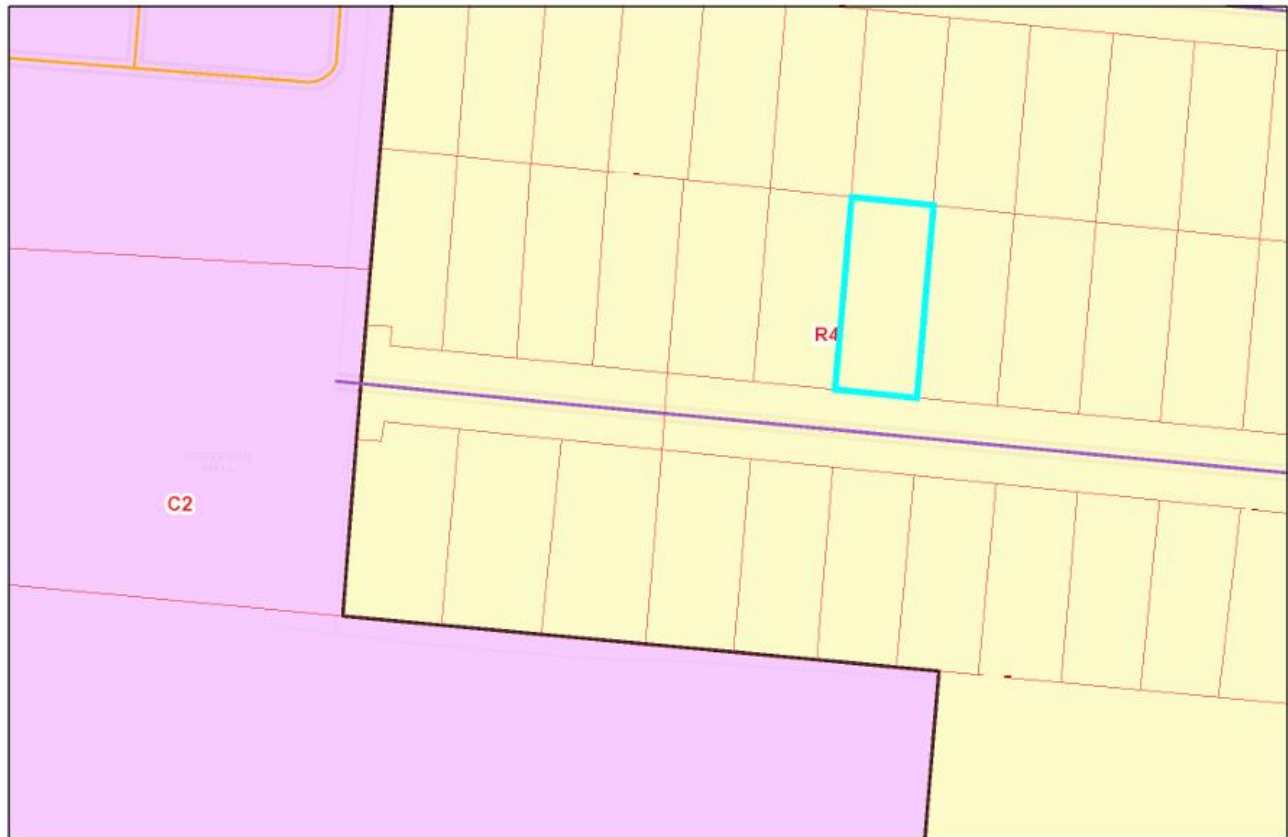
NOTIFICATION

Date	Purpose of Notice	Recipients
7/18/2023	Hearing before BOZA	1 st tier adjoining property owners and current residents
7/24/2023		Registered Neighborhood Groups in Council District 24
7/26/2023	Hearing before BOZA	Notice posted on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Site Photos

1. Zoning Map



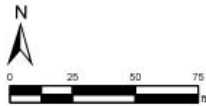
Monday, July 31, 2023 | 11:29:08 AM



LOJIC © 2023

This map is not a legal document and should only be used for general reference and identification.

2. Aerial Photograph



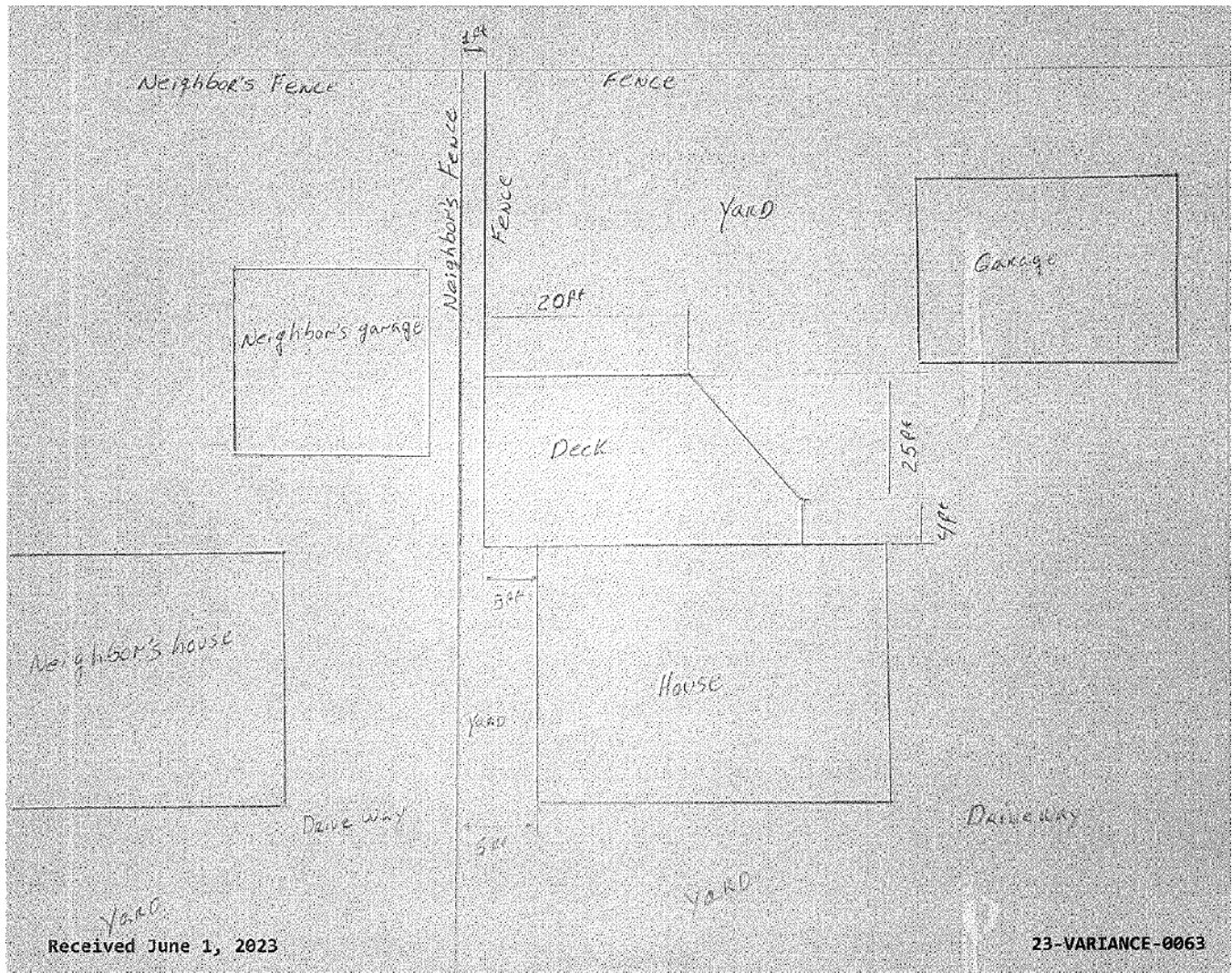
Monday, July 31, 2023 | 11:28:17 AM



LOJIC © 2023

This map is not a legal document and should only be used for general reference and identification.

3. Site Plan



4. Site Photos



Front of subject property.



Property to the right.



Property to the left.



Across the street.



View of variance area in the side yard setback.



Fence in the rear yard.



Backside of fence on rear property line.